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AUTHOR Dwyer, Kevin P.
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ABSTRACT

This report discusses disciplining children with disabilities in schools, in the context of the legal requirements of the Individuals with Disabilities Education Act. Practical concepts are explained in terms of the school's responsibility to: (1) maintain a safe environment; (2) teach a code of discipline to all students; (3) use the individualized educational program (IEP) as a vehicle for effective behavior management; (4) have the IEP team review the discipline code and determine what specialized help and instruction the child may need to understand the code; (5) make a child with a disability and the family aware of the discipline code and the consequences; (6) initiate an IEP team meeting for children who begin to demonstrate a pattern of behavior which may result in behavior problems; (7) require quick and deliberate administrative action for weapons violations; (8) conduct a manifestation review to determine if the student's behavior is related to the disability and whether the current placement is appropriate; (9) modify the IEP and, if necessary, the placement if it is determined that dangerous behavior is the result of the disability; and (10) subject a child with a disability to the regular discipline code of consequences if dangerous misconduct is found to be unrelated to his/her disability. (CR)

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Disciplining Students With Disabilities

by
Kevin P. Dwyer, NCSP
Assistant Executive Director
National Association of School Psychologists

A child runs, out-of-control, down the busy school hallway and punches another child who is quietly waiting in line outside her classroom. She starts to cry while the disruptive child continues down the hall, not responding to the teacher aide's commands to stop. Another adult says, "He's special ed, there's nothing that we can do. You can't send him to detention. I'll tell his teacher." The aide is frustrated and upset as she comforts the crying child. A child, who is labeled *seriously emotionally disturbed*, sets a trash can on fire. When brought to the principal's office the security specialist is told that it is a manifestation of the child's disability and the usual disciplinary procedures will not be followed. The security specialist leaves muttering, "Those kids get away with murder!" Both examples are serious, wrongful misunderstandings of the procedural safeguards of the Individuals with Disabilities Education Act. IDEA procedural safeguards were designed to assure that students with disabilities (receiving special education and related services) were not arbitrarily removed from their parent-approved program without consent and were guaranteed a free and appropriate public education (FAPE) within the least restrictive environment(LRE).

There is nothing in IDEA which restricts schools from disciplining children with disabilities. In fact, some would say that by not addressing these dangerous behaviors the student with special needs is not receiving an "appropriate" education. Both of these children may need specialized services to change the disruptive and dangerous behavior to make sure whatever discipline is used works in preventing a reoccurrence of that behavior.

This article is designed to provide a set of practical concepts which are believed to improve the chances that positive behaviors will increase and negative behaviors will decrease among children with disabilities who warrant special education and related services under IDEA. Some of these concepts may also be applied to other troubling students. Regardless of classification of student, all interventions should be evaluated as to their effectiveness. We know, for example that expulsion may result in a positive behavioral change for some students but that it may be ineffective or increase negative behavior in others. Research shows that when education is disrupted by long absences (such as expulsion) the likelihood of dropping out increases dramatically and that children with special needs are more likely to drop out and never complete a diploma, remain unemployed and economically dependent. Expulsion may be a deterrent for many and may be one small component of a comprehensive discipline plan. However, there is little known research as to the actual effectiveness of expulsion in improving school discipline.

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The materials contained in this article are based upon several resources and the author's 30 years experience as a school psychologist. Many of the steps noted below are found in the practices of several school districts. A "best practices" example which this document follows is the policy of the Parkway School District in Missouri (Contact person: Randy King 314-576-8509)

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It is hoped that these principles will increase positive behavior conducive to learning and reduce the need to use expulsion and suspension as interventions for behavior problems and to increase prevention strategies and parental support for actions taken to improve school discipline and safety.

School's Responsibility to Maintain a Safe Environment Conducive to Learning:

1. School systems have the responsibility to maintain safe, violence free schools. Part of that responsibility includes the establishment of a code of conduct including consequences for violations of the code of conduct. School authorities have the right and responsibility to discipline children (including the removal of children from their present school) when those children violate school rules, by engaging in conduct which materially and substantially disrupts the rights of others to be physically safe and to be educated. When conduct endangers the student, or other students, removal may become imperative. Schools also have these rights and responsibilities when students with disabilities violate school rules, causing disruptions or danger to themselves or others.

All students have the right to know the rules of conduct and to learn to master school rules. All children learn differently. Many children learn intuitively through observation, experience and encouragement. Many other children need further assistance and instruction in order to master developmentally appropriate behavior enabling them to attend, learn, share and cooperate with other children and adults.

Students with disabilities who are in need of special education and related services have, by definition, problems in learning and, unlike their non-disabled counterparts, may, in some cases, have difficulty demonstrating socially appropriate behaviors. Unlike their non-disabled peers they also have a continued right to a free and appropriate public education within the least restrictive environment even when their behavior violates a discipline rule or code.

When any child has been found to violate a code and disciplinary action is proposed that child has rights under such circumstances to challenge the reason for the action, including the right to prove that the accusations are false, distorted, exaggerated or based upon racial, ethnic, gender or disability bias. All students have the right to challenge the severity of the consequent disciplinary action recommended by the school authorities.

Responsibility to Teach <u>Code of Discipline to All Students</u>:

2. Schools have the responsibility to make sure that <u>all</u> children attending, including those receiving special education and related services, are familiar with the discipline code and that their families also have the opportunity to know and understand the code. Parents of children with disabilities should be given the opportunity to discuss the discipline code when it is a concern for their child and to be partners in finding effective ways of assisting in maintaining the code and its intent.

The IEP as Vehicle for Effective Behavior Management:

3. Children who have disabilities which cause them to be unable, as a result of those disabilities, to understand or respond appropriately to components of a discipline code or school rule should have those exceptions incorporated and addressed in their IEP.

Examples of IEP discipline issues:

A student with Tourettes syndrome may repeat vulgar, obscene words or bark over and over. Obscene language may violate the discipline code but in this child's case is out of the control of the child. The special education and related service program should, working with the child, family and physicians, determine the best possible plan to reduce and compensate for the disruption that this syndrome causes. Another child may be extremely cognitively challenged and need very concrete examples of what the school discipline code means, just as a child who is deaf or visually impaired needs special accommodations. Children with attention deficit disorder, generally, should not be suspended for inattention but their IEP should contain goals, support and specialized help in increasing attention and sustained effort. The same can be true for a child who is severely depressed or withdrawn and therefore inattentive. This behavior should also be comprehensively addressed to increase learning and productivity. A child with autism who bangs her hand on her desk over and over cannot be treated the same as a child or group of children who are doing the same thing to deliberately disrupt the class. A child who cannot speak clearly or communicate feelings or ideas can become extremely frustrated and may stomp out of the class or toss his pencil across the room. Training in finding alternative methods for communicating and for coping with frustration must be in place before the disruptive behavior becomes routine and results in disciplinary action which may increase the disruptive behavior.

All of the above examples require an effective individualized intervention plan documented in each child's IEP. If such a plan did not exist and a disciplinary action were taken resulting in a suspension, expulsion or removal form FAPE it could be a violation of the child's rights.

Responsibility of the IEP Team to Address and Prevent Behavior Problems:

4. It is the responsibility of the IEP team to review the discipline code and determine what specialized help and instruction the child may need to understand the code and consistently demonstrate the appropriate classroom and school behaviors conducive to learning. The team should identify and address the difficulties which may occur that may be related to the child's disability and to establish plans that will reduce the chance that such infractions will occur. The team should plan to provide adaptations and compensations for those behaviors which require an intervention plan and also address those behaviors which may remain unchanged due to the complexity of the disability.

Behavioral Goals, Parent Involvement and Services:

5. A child with a disability and the family or parent surrogate should be aware of the discipline code and the consequences for violating each component of the code. They should participate in the IEP to help determine what exceptions to the discipline code are necessary and the behavioral goals designed to progressively address those exceptions. These plans should include the special education and related services interventions designed to assist the child in maximizing her/his social responsibility. Behavioral goals, as with academic goals, should be measurable, reviewed and modified as needed.

Problematic Patterns of Behavior and Prevention:

6. Children who begin to demonstrate a pattern of behavior which may result in behavior problems leading to suspensions should cause the school to initiate an IEP meeting to assist in determining if additional interventions or modifications in the IEP are needed to change that pattern of negative behavior. Such interventions may reduce the chances of the child accumulating a series of suspensions which may, over time, constitute a change in placement. Any behaviors which block learning and the success of the educational program should be addressed. When the behaviors are not related to the disability it remains important to both address the problems and to restate the pattern of code violations and the consequences for those violations to the child and parent. School and parents should work cooperatively to change the pattern of negative behavior. The school should support the parent in securing other resources to assist in positive behavioral change and work cooperatively with those resources.

Weapons:

7. Weapons violations require quick and deliberate administrative action. When a child with a disability violates a rule involving weapons, safety should be the priority both for the child and others. If the rules mandate "automatic" expulsion and notification of the police a written notice of such action must be made available to the parents. An expulsion recommendation constitutes a change in placement and invokes procedural rights under IDEA. The IEP team should become involved in assisting in developing the most effective disposition as soon as possible. Removal from special education for more than ten days violates the child's right to FAPE.

Manifestation Review:

8. When the IEP has addressed behavior the team has valuable information about the relationship between the child's disability, the behavioral concerns and the services provided. When a suspension or expulsion constitutes a change in placement the IEP team should determine if the student's behavior is related to the disability and whether the current placement is appropriate by evaluating all factors related to the students behavior and IEP. This should include the review of the interventions tried and services provided to prevent the presenting problem.

The determination of a behavior being a manifestation of the child's disability can be a complex process. It must be determined by qualified professionals, on an individual, case-by-case basis. It is not determined by the child's label or category. It is not determined by the "ability of the child to determine right from wrong." It must include an analysis of the child's program as well as the child's physical, cognitive, developmental, mental and emotional challenges.

When a Manifestation of the Child's Disability:

9. When the dangerous behavior is the result of the disability, expulsion is an inappropriate action. The child cannot be expelled for that behavior. However, this does not mean that the child must remain in the present placement. When it is determined that the placement or the IEP is not meeting the child's behavioral needs modifications should be made to IEP and, if necessary, the placement, as well as needed services, to assure that the behavior will be addressed and to prevent its reoccurrence. When dangerous behavior, such as weapons violations continue, a controlled, secure placement may be necessary. Any placement should continue FAPE as well as addressing the behaviors of concern. When parents have been involved in the development of the IEP, and the behavioral goals and services, agreement is more likely to occur between school and family regarding modifications in the program.

When Not a Manifestation of the Child's Disability:

10. A child with a disability whose dangerous misconduct is found to be not related to his/her disability and whose IEP and program are appropriate may be subject to the regular discipline code of consequences provided that the child continues to receive FAPE. The local school system may seek a court injunction when a child and parent refuse to accept a change in placement and invoke the "stay-put rule." However, the changed placement should guarantee FAPE, even when the behavior remains a perceived threat or danger to the child and/or others. In other words, FAPE should continue but may need to be provided within an alternative center where control reduces danger. Restrictive alternatives may include, for example, a juvenile detention center, residential treatment center or other secure facility. It is not in the child's, the school, community or family interest to maintain a child using an existing IEP and placement when the weapons or dangerous behavior is not effectively addressed within that placement. It is in no ones interest to terminate FAPE to a child with a disability who is in need of special education and related services.